

sas

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1145 OF 2016

Tatya Chandu Jadhav	..Applicant.
V/s.	
State of Maharashtra	..Respondent.
Mr.Jaydeep D.Mane for the applicant.	
Mrs.R.M. Gadhvi, APP for respondent-State.	

CORAM : A.M.BADAR, J.

DATED : 15TH JUNE, 2016

P.C. :-

1. The applicant / accused in Crime No.240/2016 for offences punishable under sections 376, 354, 498A, 341, 323, 504, 506 and 201 read with 34 of the Indian Penal Code registered with Vijapur Naka Police Station, Solapur by this application is praying for releasing him on bail.

2. The applicant / accused is the father-in-law of the informant Mahadevi Srikant Jadhav. She was married to the son of the applicant on 28th November, 2014.

3. Heard the learned counsel appearing for the applicant. By pointing out the official records maintained by the police department, he argued that in fact even prior to the lodging of the F.I.R. in question, there was a threat to him from the parental relative of the informant that he would be implicated in the offence of rape. The learned counsel for the applicant argued that the official record of police department shows that he was very much present at night duty at the time of the alleged offence.

4. As against this, the learned APP argued that the offence alleged against the present applicant is serious in nature and as such, the charge-sheet is not yet filed. She further argued that the statement of police personnel goes to show that the applicant was not present on his duty at the time of the incident. She further argued that the call record shows that the applicant was not present at the time of his duty.

5. Perused the case diary. The prosecution case is to the effect that after marriage of Shrikant with the informant, Shrikant used to be away from his house and he thereafter left

the house from April, 2015. According to the prosecution case, at that time, informant Mahadevi was pregnant and it was with the intervention of elders, she was brought to her matrimonial house. Thereafter, she went to her parental house for staying and again with the intervention of elders, she was accepted in her matrimonial house with her one and half years old daughter. According to the prosecution case, all accused persons used to subject her to cruelty. The incident of allege rape on the prosecutrix happened on 3rd May, 2016. According to the prosecution, she was sleeping in her room without latching the door as it was the day of summer season. At about 11.30 p.m. she felt somebody was coming inside her room. She then noticed that the applicant entered in her room. Thereafter, according to the version of the prosecutrix, the applicant committed rape on her. She disclosed this incident to her sister-in-law and bother-in-law. They prevented her from lodging the report. The prosecutrix then returned to her parental house along with her parents and on 11th May, 2016 lodged the report.

6. It appears that major part of the investigation is already over. The applicant has placed reliance on the official

records and it is wise presumption of law that official acts are regularly done. The extracts of register of non-cognizable offence placed on record show that the present applicant has lodged report against the uncle of the present informant named Rathod on 18th November, 2015. This report is to the effect that the uncle of the prosecutrix had threatened to implicate the applicant in false case of rape if the matrimonial dispute involving the informant / prosecutrix is not settled. Reliance is placed by the applicant on the attendance register, general diary as well as "Nakra Batwada" maintained by Solapur Rural Police Station. These documents show that on 3rd May, 2016 night duty was entrusted to the applicant. The documents reflect that from 22.00 hours of 3rd May, 2016 to 5.00 hours of 4th May, 2016 the applicant was on night round at Boramal area.

7. As against this, the prosecution is relying on the CDR showing the presence of the applicant elsewhere. Reliance is also on the statements of police personnel but that statement shows that the applicant was wearing civil dress and present at market-yard on that night.

8. Be that as it may, now as the investigation is almost over and considering allegations against the present applicant *vis-a-vis* previous threats to him of false implication, pre-trial detention of the applicant / accused is not warranted and hence the order :-

- (i) The applicant / accused in Crime No.240/2016 for the offences punishable under sections 376, 354, 498A, 341, 323, 504, 506 and 201 read with 34 of the Indian Penal Code registered with Vijapur Naka Police Station, Solapur be released on his examination P.R. Bond of Rs.15,000/- with one or more sureties in the like amount.
- (ii) The applicant / accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against applicant so as to dissuade him from disclosing such facts either to the Court or to any police officer and that he shall not tamper with the evidence;
- (iii) The applicant / accused shall co-operate for expeditious disposal of the trial;
- (iv) The application is disposed of accordingly.

(A.M.BADAR, J.)